

Abstract

This thesis titled “The Relevance of Medical Opinion at the Commencement and Termination of Employment” deals with the need and use of medical opinions in employment relations issues.

The introductory chapter briefly describes the employer’s duty to take care of his employees’ health as it is a part of Occupational Health and Safety rules. The following part is dedicated to the general legislation on company health care services, mainly to the Specific Health care Services Act (373/2011 Sb.). The chapters describe the system of relations between the employer and the company health care services provider which is a business relation. Then the author describes company medical examinations, specifically entrance and extraordinary medical examinations. Also formal requirements of medical opinions and their issue terms can be found in this part. The final chapter of the first part is dedicated to the possibility of medical opinions to be reviewed at administrative procedure or others; important case law is presented.

The second part of the thesis is dedicated to medical opinions at commencement of employment and their relevance. The opening chapter of this second part deals with the legal situation as it was effective until October 31st, 2017 when the law required to undergo the entrance medical examination before concluding the employment contract. The chapter gives a detailed study of the situation if the jobseeker did not undergo the medical examination – what is called “factual employment” is described; the chapter includes a short analysis of settling unjust enrichment as well. The following chapter deals with the legal situation effective since November 1st, 2017 when now the law requires to undergo the entrance medical examination before commencement of the employment. Again the analysis of the situation when the jobseeker does not undergo the medical examination is covered. The final chapter of this part focuses on the legal obligation to have the medical opinion made when concluding the Agreements on Work Performed Outside of Employment.

The third and final part deals with the relevance of medical opinion at termination of employment with the focus on its necessity when giving the notice for health-related reasons. The conception of the Czech Supreme Court is presented with the evolution of case law in this area. Following chapters are dedicated to legal proceedings of nullity of the given notice where expert witnesses represent a very important part today. The very final chapter touches the legal

situation in the Federal Republic of Germany which doesn't take medical opinions into account at all. On the other hand it also shows the legal situation in Slovakia that considers the medical opinions obligatory and binding, even for courts.

Finally the findings of the thesis are summarized and the current legal situation in Czech law is evaluated. The author also presents her consideration *de lege ferenda*.